

IN THE UNITED STATES PATENT AND TRADEMARK OFFICE

In re Application of:)	
	:	Examiner: Aung S. Moe
TETSUYA ITANO ET AL.)	
	:	Group Art Unit: 2618
Application No.: 09/976,096)	
	:	
Filed: October 15, 2001)	
	:	
For: IMAGE PICKUP APPARATUS)	January 22, 2007
	:	(Monday)
Patent No.: US 7,139,028 B2)	
	:	
Issued: November 21, 2006)	

Mail Stop Patent Ext.

Commissioner for Patents

P.O. Box 1450

Alexandria, VA 22313-1450

REQUEST FOR RECONSIDERATION OF
PATENT TERM ADJUSTMENT UNDER 37 CFR 1.705(d)

Sir:

Patentee hereby requests under 37 CFR 1.705(d) reconsideration and recalculation of the Patent Term Adjustment (PTA) for the above-identified patent. The fee of \$200.00 as set forth in 37 CFR 1.18(e) is being submitted electronically herewith.

For the following reasons, this patent is believed to be entitled to a PTA of 770 days.

FACTS

1. The present patent issued from patent Application No. 09/976,096 (the '096 application) filed on October 15, 2001.
2. The present patent is not subject to any terminal disclaimers.
3. The Patent Application Information Retrieval (PAIR) system indicates an Applicant-delay period of 70 days and a PTO-delay period of 775 days. The period of PTA assessed for the '096 application is 705 days.
4. In response to a Notice to File Missing Parts of Non-Provisional Application dated November 14, 2001, Applicants filed a Response to Notice to File Missing Parts of Application - Filing Date Granted on January 14, 2002. Attached to the Notice was the required executed Declaration/Power of Attorney form, together with the surcharge fee of \$130.00. Attached hereto is a postcard stamped by the Office of Initial Patent Examination acknowledging receipt of the executed Declaration on January 14, 2002.
5. After paying the Issue Fee on July 11, 2006, Applicants received a Request for Missing Oath/Declaration on August 28, 2006. The Request indicated that the "Oath/Declaration originally filed with the case has been missing, please provide a copy of original Oath/Declaration."
6. On September 18, 2006, Applicants filed a Response to Request for Missing Oath/Declaration including a copy of the original Declaration.

7. Presumably, Applicants were assessed 65 days of patent term adjustment from the date the copy of the original Declaration was filed (September 18, 2006) to the date the patent issued (November 21, 2006).

ARGUMENTS

1. The PTO incorrectly assessed 65 days of Applicants for the filing of the Response to Request for Missing Oath/Declaration on September 18, 2006.

2. Although MPEP § 2732 notes that an Oath or Declaration filed after a Notice of Allowance will be considered a failure to engage in reasonable efforts to conclude processing examination of an application, the paper filed in this case was a copy of a Combined Declaration that had previously been timely filed in the PTO. The copy was filed at the request of the PTO because the PTO was missing the original copy. Such was not the fault of Applicants and should not result in any reduction in patent term adjustment.

RELIEF REQUESTED

Reconsideration of the patent term adjustment is respectfully requested, in which the Applicant-delay period of 70 days be reduced to 5 days. It is requested that the patent term adjustment be recalculated as 770 days.

Applicants' undersigned attorney may be reached in our Washington, D.C. office by telephone at (202) 530-1010. All correspondence should continue to be directed to our below-listed address.

Respectfully submitted,

/Mark A. Williamson/

Attorney for Applicants
Mark A. Williamson
Registration No. 33,628

FITZPATRICK, CELLA, HARPER & SCINTO
30 Rockefeller Plaza
New York, New York 10112-3801
Facsimile: (212) 218-2200
MAW/agm

DC_MAIN 267635v1